

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Boxabl, Inc.,

Plaintiff(s),

v.

Yanni Tashev a/k/a Iani Tashev,

Defendant(s).

2:23-cv-0760-CDS-VCF

ORDER

Before the Court is plaintiff's motion for second extension of time to serve amended complaint and emergency motion. (ECF No. 42).

Plaintiff is requesting up to and including October 11, 2023 to perfect service on Yanni Tashev a/k/a Iani Tashev.

Pursuant to Federal Rule of Civil Procedure 4(m), "[i]f a defendant is not served within 90 days after the complaint is filed, the court--on motion or on its own after notice to the plaintiff--must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period." "The 90-day time limit imposed by Rule 4(m) expires 90 days after the first complaint in which the defendant is named..." is filed. *Bolden v. City of Topeka*, 441 F.3d 1129, 1148 (10th Cir. 2006)(emphasis added). The 90-day time limit for service does not restart each time a plaintiff files a new amended complaint. *Id.* The district court may extend time for service of process retroactively after the 90-day service period has expired. See *Mann v. American Airlines*, 324 F.3d 1088, 1090 (9th Cir.2003).

The complaint was filed on April 27, 2023. The deadline to effectuate service of process was July 26, 2023. *Id.*; Fed. R. Civ. P. 4(m). Plaintiff states that the process server has made numerous attempts

1 to serve defendant at his last known addresses, but service was unsuccessful. On August 16, 2023, the
2 court granted Plaintiff's initial request of a 30-day extension to perfect service on defendant Tassev. (ECF
3 No. 39). Plaintiff is requesting an additional 30 days to perfect service on defendant. (ECF No. 42).

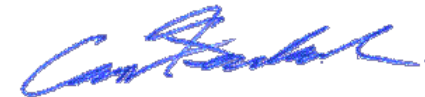
4 The time to effectuate service upon defendant expired on September 11, 2023, and plaintiff must
5 make a showing of good cause or excusable neglect in order for the court to extend this deadline for an
6 appropriate period. *See* Fed. R. Civ. P. 4(m); *Lemoge*, 587 F.3d at 1198; *Mann*, 324 F.3d at 1090 (the
7 court may extend the deadline for service of process retroactively).

8 Here, the court finds that good cause warrants extending the service of process deadline.

9 Accordingly, and for good cause shown,

10 IT IS ORDERED that plaintiff's motion for second extension of time to serve amended complaint
11 and emergency motion (ECF No. 42), is GRANTED. The time to perfect service is extended to and
12 including October 11, 2023.

13 DATED this 25th day of September 2023.



14 CAM FERENBACH
15 UNITED STATES MAGISTRATE JUDGE
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